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August 6, 1999

RECEIVED

AUG 6 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Implementation of the Local Competition Provisions
Of the Telecommunications Act of 1996 (UNE Remand)
CC Docket No. 96-98

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's rules, the Competitive Telecommunications Association ("CompTel"), by its undersigned counsel, hereby gives notice that on August 4, 1999, Russell Frisby and Carol Ann Bischoff, Joe Gillan, Robert Aamoth of Kelley Drye & Warren LLP, and the undersigned met with Larry Strickling, Chief of the Common Carrier Bureau, Bob Atkinson, Deputy Chief of the Common Carrier Bureau, and Jake Jennings of the Common Carrier Bureau to discuss the above-captioned proceeding. The attached materials summarize the presentation.

In accordance with Section 1.1206(b), an original and one copy of this notice is being provided.

KELLEY DRYE & WARREN LLP

Ms. Magalie R. Salas
August 6, 1999
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Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Augustino". The signature is stylized with a large, sweeping initial "S" and a long horizontal line extending to the right.

Steven A. Augustino

SAA:pab

Enclosures

cc: FCC staff members listed above

PRINCIPLES GOVERNING UNE DEFINITIONS

1. THE ACT DOES NOT FAVOR ANY ENTRY STRATEGY OVER ANOTHER

- Consumer benefits and innovation flow from all three options
- Availability of UNEs promotes entry and expands a carrier's footprint
- Cannot limit UNEs to promote "facilities deployment"

2. THE CHOICES OF ONE CLEC SHOULD NOT LIMIT THE OPTIONS OF ANOTHER

- CLECs are employing a multitude of business strategies; what is sufficient for one carrier may not be sufficient or even possible for another carrier
- Consequences of delay are different for carriers with an embedded base of dispersed customers
- The FCC cannot predict where innovation will occur or the end user services that will be developed

3. UNE DEFINITIONS SHOULD BE TECHNOLOGY AND FACILITIES-NEUTRAL

- Cannot assume that "facilities deployment" is limited to network transmission capabilities. Carriers may add value through network intelligence and billing and customer care systems.
- Assumptions made will size the market by determining who can compete

4. WHOLESALE ENTRY OPTIONS PROMOTE COMPETITION

- Wholesale supply avoids unnecessary duplication and enables resources to be focused on differentiation and innovation
- Interchangeability and sufficient supply are key factors in an impairment analysis
- Development of a wholesale market requires that some carriers deploy their own facilities, and therefore, also demonstrates that self-supply is feasible
- If wholesale alternatives exist, ILECs will have an incentive to offer their own alternative, rather than denying access altogether

5. USE-BASED RESTRICTIONS ON UNES ARE UNLAWFUL

- Section 251(c)(3) makes UNEs available for the provision of any telecommunications service.
- Limitations on UNEs based on the customer receiving service or the nature of the carrier's intended end user service are unlawful.

UNE ACCESS AND USE RULES NOT IMPLICATED IN THE REMAND

§ 51.307 Duty to provide access on an unbundled basis to network elements.

- (c) An incumbent LEC shall provide a requesting telecommunications carrier access to an unbundled network element, along with all of the unbundled network element's features, functions, and capabilities, in a manner that allows the requesting telecommunications carrier *to provide any telecommunications service that can be offered by means of that network element.*

§ 51.309 Use of unbundled network elements.

- (a) An incumbent LEC shall not impose limitations, restrictions, or requirements on requests for, *or the use of*, unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends.

§ 51.503 General Pricing Standards.

- (c) The rates that an incumbent LEC assesses for elements shall not vary on the basis of the class of customers served by the requesting carrier, or on the type of services that the requesting carrier purchasing such elements uses them to provide.

§ 51.319 Specific unbundling requirements.¹

- (c)(1)(ii) An incumbent LEC shall transfer a customer's local service to a competing carrier within a time period no greater than the interval within which the incumbent LEC currently transfers end users between interexchange carriers, if such transfer requires only a change in the incumbent LEC's software.

¹ Although the Supreme Court vacated Rule 319, nothing in the Court's opinion addressed the parity principle embodied in § 51.319(c)(1)(ii).

The Importance of Interchangeability

State	Electronic Migration ¹	Standard Manual Loop/Port Migration ²	Coordinated Surcharge
Florida	\$1.46	\$178.00	
Georgia	\$2.01 ³	\$59.91	\$53.16
New York	\$3.82	\$67.18	
Illinois		\$107.63	TBN ⁴
Kansas		\$143.15	\$72.50 ⁵
Iowa		\$123.45	\$105.31
Montana		\$218.62	\$232.92

¹ Electronic migration processes can be designed to satisfy Rule § 51.319(c)(ii):

An incumbent LEC shall transfer a customer's local service to a competing carrier within a time period no greater than the interval within which the incumbent LEC currently transfers end-users between interexchange carriers, if such transfer requires only a change in the incumbent LEC's software.

² Does not include additional costs associated with collocation.

³ BellSouth proposed rate.

⁴ Ameritech has indicated that once a mutually agreed upon "Hot Cut Provisioning Process" is established, rates, terms and conditions will be negotiated.

⁵ Final rates to be determined in cost proceeding.